



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

LEIGH RUSHTON WEAVER,
on behalf of KHW minor child,
Plaintiff,

vs.

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,
Defendant.

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CIVIL ACTION NO. 8:14-1083-MGL-JDA

ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND REVERSING AND REMANDING DEFENDANT'S DECISION TO DENY BENEFITS

This is a Social Security appeal in which Plaintiff seeks judicial review of the final decision of Defendant denying her claim for Supplemental Security Income (SSI). The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting to the Court that Defendant's final decision denying Plaintiff's claim for SSI be reversed and remanded.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on July 29, 2015, and Defendant filed her reply on August 17, 2015, informing the Court that she would not be filing any objections to the Report. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

On March 29, 2011, Plaintiff filed an application for SSI on behalf of KHW, a child under the age of eighteen. Plaintiff’s claim was denied initially and upon reconsideration. Plaintiff requested a hearing, which the ALJ conducted on September 13, 2012. Then, on October 18, 2012, the ALJ issued a decision finding that KHW was not disabled under the Act. The Appeals Council denied Plaintiff’s request for review of the ALJ’s decision. Accordingly, the ALJ’s decision became Defendant’s final decision for purposes of judicial review. Plaintiff then filed suit in this Court on March 21, 2014, seeking judicial review.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court that Defendant’s final decision denying Plaintiff’s claim for SSI is **REVERSED AND REMANDED** for further proceedings consistent with the Report.

IT IS SO ORDERED.

Signed this 19th day of August, 2015, in Columbia, South Carolina.

s/ Mary G. Lewis
MARY G. LEWIS
UNITED STATES DISTRICT JUDGE